Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
	)	
Inquiry Concerning the Deployment	)	
Of Advanced Telecommunications	)	
Capability to All Americans in a	)	
Reasonable and Timely Fashion And,	)	CC Docket No. 98-146
Possible Steps to Accelerate Such	)	
Deployment Pursuant to Section 706	)	
of the Telecommunications Act of 1996	)	

THIRD NOTICE OF INQUIRY
COMMENTS OF
THE ALLIANCE FOR PUBLIC TECHNOLOGY &
THE WORLD INSTITUTE ON DISABILITY

September 24, 2001

I. Introduction

The Alliance for Public Technology (APT), joined by the World Institute on Disability (WID), welcomes the opportunity to comment on the state of deployment of advanced telecommunications services and the Federal Communications Commission's role in implementation of Section 706 of the 1996 Telecommunications Act.

APT is a nonprofit organization comprised of public interest groups and individuals that have been advancing the need for ubiquitous deployment of advanced telecommunications services throughout our nation for more than a decade. WID, a founding member of APT, is a nonprofit, international public-policy center dedicated to carrying out cutting edge research on disability issues and overcoming obstacles to independent living. The issue in this proceeding is not simply about increased speed for telecommunications services. The life-enhancing applications of the technology have the

potential to: bring better and more affordable health care to all citizens; expand educational opportunities for lifelong learning; enable independent living for senior citizens and people with disabilities; create opportunities for jobs and economic advancement, as well as the ability to control one's own finances; make government more responsive to all citizens; and simplify access to communications technology.

In order to fully recognize these potential benefits of advanced telecommunications services, every sector of our nation must have affordable and useable access to them. To that end, APT developed the concept of "connecting each to all"[1] (i.e. networks gain their value by having everyone connected) and articulated the following goal of advanced universal service that is now embodied in Section 706 of the 1996 Act:

> Make available as far as possible, to all people of the United States, regardless of race, color, national origin, income, residence in rural or urban area, or disability high capacity two-way communications networks capable of enabling users to originate and receive affordable and accessible high quality voice, data, graphics, video and other types of telecommunications services.[2]

In the intervening years, APT has consistently urged the Commission to consider the impact of Section 706 for every proceeding. It is clear that our nation needs a strong federal commitment to the advanced universal service goals of the '96 Act. It is equally clear that it is long past time for the FCC to use its full authority under Section 706 to remove barriers and create incentives for industry's rapid deployment of advanced services.

[1] *Connecting Each to All,* Alliance for Public Technology, 1993
[2] *Principles to Implement the Goal of Advanced Service,* Alliance For Public Technology, at 3 (1995).

As the leading consumer proponent on these issues, APT will undertake to address the following questions in the Commission's NOI:

1. Is Advanced Telecommunications capability being deployed to all Americans?
2. Is deployment reasonable and timely?
3. What actions can accelerate deployment?

These questions must be addressed within the context of the development of a national broadband policy. Americans cannot enjoy the life-enhancing applications made possible by advanced telecommunications services without efficient deployment of the necessary infrastructure. APT firmly believes that advanced telecommunications services can improve quality of life in all communities. But this cannot be realized until it is recognized that deployment of the technology must take place in an efficient manner, as is proscribed in Section 706.

II. Is advanced telecommunications capability being deployed to all Americans?

The simple answer to this question is **no**. While statistics indicate that more people have access to advanced services today than one or two years ago, critical gaps remain. The Commission should reexamine the assessment criteria and confront the realities of the marketplace. Consideration should also be given to broad categories of our population, beyond the customary interpretation of "underserved."

Assessment Factors

Deployment is not simply the act of laying the fiber and cable. It is also important to consider if consumers are able to access the technology that may pass by their home. The Commission has chosen to evaluate deployment based on data that indicates whether or not there is at least one subscriber to advanced services within a zip

code. This technique is fundamentally flawed. Stating that there is at least one subscriber in a certain zip code does not provide information about the rest of the inhabitants of that area. The zip code may encompass both high and low-density population areas. There may be many economic disparities. This methodology ignores too many externalities. However, even in using this approach, the data still indicate an uneven level of deployment. According to the Commission, 25% of the nation's zip codes do not contain subscribers to high-speed services.[3] That alone is troubling. But what is worse is that we do not know why there are no subscribers in these areas. It will be impossible to state that advanced telecommunications services are being deployed to all Americans until there is a more accurate gauge of deployment and every American has at least the opportunity to access the services. There have been several critiques of this method, including some from the leadership of the Commission. Former Commission Chairman William Kennard has stated "that our zip code data are so general that they may overstate the level of deployment."[4] Former Commissioner Tristani, in her statement accompanying the Second Report on Deployment of Advanced Telecommunications Capability said "The zip code data are of limited usefulness, because providers were asked to report whether there is at least one subscriber in a particular zip code, not the *number* of subscribers in a particular zip code. Thus, the data do not indicate the extent to which the presence of broadband in a particular zip code indicates more widespread availability."[5]

[3] NOI at Paragraph 13.
[4] Statement of FCC Chairman William E. Kennard, accompanying Deployment of Advanced Telecommunications Capability, Second Report, August 3, 2000
[5] Statement of FCC Commissioner Gloria Tristani, accompanying Deployment of Advanced Telecommunications Capability, Second Report, August 3, 2000

The Commission should consider more detailed factors, rather than simply looking at how many zip codes have a subscriber. Perhaps the Commission should conduct a more detailed analysis of those zip codes that possess the highest number of subscribers and those that possess no subscribers. The comparisons could yield startling conclusions about which populations are receiving deployment.

Evolving Definition of Advanced Telecommunications Services

The Commission has also chosen to focus on a basic definition of advanced telecommunications capability, proposing to keep it confined to bandwidths of 200 kilobits per second (kbps).[6] This limits the abilities of advanced services, focusing only on the current technologies such as DSL. APT has continually argued that the definition of advanced services must be dynamic and evolve with the changes in technology.[7] In fact, it is already evident that higher speed applications are emerging. Internet 2, a consortium of colleges and universities working with government and industry to develop the next generation of Internet services, has stated that the capacity required by each Internet 2 participant could reach as high as high as 622 Mbps.[8] The Commission must continue to expand its definitions of advanced services or it risks falling behind the innovations of the technology industry.

Realities of the Marketplace

Advanced telecommunications capabilities are not being deployed to all Americans because of the realities of the marketplace, which by its nature cannot serve

[6] NOI at Paragraph 5
[7] Comments of the Alliance for Public Technology In the Matter of Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-146 (March 20, 2000) at 2.
[8] Internet2 Preliminary Engineering Report, January 1997, http://www.internet2.edu/html/97engineering.html#

all customers equally. Therefore, policies must be implemented that help those communities that the marketplace leaves behind. Rural, minority, low-income populations and people with disabilities are some of those groups who are not able to fully access the technology. Frequently, they are not able to offer the demand necessary to meet the economic criteria for deployment. For example, rural communities are hampered by the costs to industry of building infrastructure over great distances.[9] Public policy intervention is needed to create market incentives to stimulate deployment. As demand grows, serving these communities becomes more economic. If policies are not implemented to ensure access for these communities, we will have a country of information rich and information poor.[10]

Scope of the Problem

The full spectrum of our society stands to benefit from full and equitable access. For example, the Commission's Second Report on Deployment of Advanced Telecommunications Capability[11] acknowledged that people with disabilities are often unable to access advanced services. It does not take into account, however, that as our aging population grows, so do the number of people with functional limitations who could benefit from the empowering nature of the technology. Actually, we all benefit. For example, captioning that enables people who are deaf to enjoy video programming, can be helpful for people learning English or those in noisy surroundings. Likewise,

[9] See *Advanced Telecommunications in Rural America*, NTIA Report April 2000, at ii.
[10] Comments of the Alliance for Public Technology In the Matter of Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-146 (March 20, 2000) at 3.
[11] Deployment of Advanced Telecommunications Capability, Second Report, August 20000, FCC 00-290 at 6.

voice recognition software that enables people who are blind and visually impaired to read printed text can identify a caller ID number from anywhere in the room.

Technology can change the way we live, work and learn and Americans not receiving these advanced services need more than an "at risk" label from the Commission. The Commission must recognize the full measure of the problems with deployment and the need for all Americans to be connected.

III. **Is deployment reasonable and timely?**

The answer to this question is also **no**. Deployment is neither reasonable nor timely because it is a very uneven process. Some communities have received advanced telecommunications services very quickly; some will wait years, if not decades before obtaining access. APT urges the Commission to address these disparities, by determining more accurate measurements of deployment, creating a better understanding of the criteria beyond the vague "reasonable and timely," and responding to the failures of the marketplace.

APT has repeatedly stated that deployment is not progressing on a reasonable and timely basis because there is no coherent policy in place that makes deployment a priority. There are no incentives for deployment and no mechanisms for communities to develop partnerships with the providers of advanced services. Simply put, there is an abundance of rhetoric and a dearth of action. APT recommends that the Commission use the authority granted by Section 706 to develop a regulatory policy that will encourage broadband deployment.

IV. What actions can accelerate deployment?

In May of this year, APT reaffirmed its previous positions by adopting a set of principles that can contribute to more rapid deployment and ubiquitous availability. APT recommends that the Commission consider the below referenced principles in its efforts to implement Section 706.

Barriers and Incentives

Above all, the Commission needs to demonstrate a strong commitment to providing incentives and removing barriers to industry's rapid deployment of advanced services. Section 706 clearly authorizes the use of "price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment." LATA restrictions, for example, were created for voice communication. In today's data environment, where distance is irrelevant, they are a *disincentive.* Similarly, pricing must be cost based to encourage investment.

A Fair Regulatory Environment

The Commission should establish a fair regulatory environment to reflect a technology-neutral philosophy. Policies should foster investment in high capacity network services on terms of equality among all providers in the broadband market and respond quickly to the changes in technology and the organization of the industry.

Community Based Solutions

The Commission should take actions designed to spur community based solutions, such as social compacts and demand aggregation. These twin concepts have

continually been at the heart of APT's Section 706-related filings.[12] An example of a social compact comes from North Carolina, where an agreement was reached between the state and BellSouth, Sprint and Verizon to bring advanced services to rural parts of the state at costs comparable to urban areas. The companies have committed to providing high-speed access to all parts of the state within three years. They are also establishing Telework Centers in the most economically distressed parts of the state. These centers will be central locations where residents can conduct business over high-speed connections and will also provide training and advice in e-commerce. This partnership between government and industry addresses the specific needs of citizens who are not receiving the advanced services that are needed to live and work.[13]

Another example of community based solutions comes from the state of Texas. The Texas Public Utility Commission, in its 2001 report to the state legislature, recommended a policy of demand aggregation. Customers can join together to increase their demand power in areas where providers are not deploying advanced services. School districts, libraries, hospitals and colleges can form coalitions that create demand for services. The service providers can gain benefits from working with demand aggregation consortiums, as it would become economical for them to enter particular markets where the individual demand for services was not sufficient.[14] These goals and policies are efficient measures that government at all levels can utilize. They are solutions

[12] Comments of the Alliance for Public Technology In the Matter of Inquiry Concerning Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, CC Docket No. 98-14 (September 14, 1998) at 3 & 6.

[13] See North Carolina, Office of the Governor Press Release Gov. Hunt, Communications Companies Forge Agreement to Bring Internet Access to All North Carolinians. (April 26, 2000) at http://www.nccommerce.com/publicaffairs/releases/rural_internet.htm

[14] Texas Public Utilities Commission, Report to the 77th Legislature on Advanced Services In Rural and High Cost Areas (January, 2001) pg 69.

to the failures of the market and they do not place undue burdens on either the service providers or the consumers.

In addition, the Federal-State Joint Conference on Advanced Services should conduct more field hearings to continue assessment of the status of deployment in various communities. The conference has already begun an examination of projects in place. For example, LaGrange, Georgia, a community of 9,300 households, has instituted a program to bring free high-speed service to all its residents through collaborations with Charter Communications and Worldgate Communications. According to the mayor of LaGrange, the motivations for this project were to attract and keep businesses, let teachers communicate more easily with parents and help local retailers compete on the Internet.[15] More proactive endeavors such as this need to be found by the Commission and actions should be taken to encourage other communities to emulate these models.

Deployment Timelines

The Commission should establish timelines for deployment of advanced services to all Americans. Congress has already considered a proposal that would ensure deployment of advanced services capability to all central offices or equivalents within five years. The state of Iowa has set the goal of bringing advanced services to all Iowa residents by 2005, through a combination of public and private endeavors that will increase demand for the services. The Commission should set similar tangible goals. The Commission should adopt rules that would ensure every customer served by a central office will have access to some form of broadband service (cable, phone, satellite, wireless or other technology), at DSL-level speeds, within three years. And, further

[15] Communications Daily, August 31, 2001 NEW MEDIA

regulations should state that customers have access to next generation services within similar timeframes in relation to the introduction of these higher speed services.

V. Conclusion

Section 706 set a clear mandate for the deployment of advanced telecommunications capability and there is broad agreement that creation of an advanced national telecommunications infrastructure is essential. We want to make sure that this new infrastructure is both equitable and accessible for all our citizens. APT respectfully urges the Commission to consider its comments and take prompt action so that the millions of Americans who are currently unable to enjoy the benefits of advanced services will soon be part of the telecommunications universe and the goals of universal advanced service embodied in Section 706 are realized.

Respectfully submitted,

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